

**BEFORE THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

In the Matter of)	
)	
Telrite Corporation d/b/a Life Wireless)	
Petition for Designation as an)	D.T.C. 13-1
Eligible Telecommunications Carrier)	
in the Commonwealth of Massachusetts)	

MOTION FOR PROTECTIVE ORDER

Telrite Corporation d/b/a Life Wireless (“Telrite” or the “Company”) respectfully requests that the Department of Telecommunications and Cable (“Department”) protect from public disclosure certain confidential, competitively sensitive, and proprietary information provided in this proceeding pursuant to Mass. Gen. Law ch. 4, § 7(26), Mass. Gen. Law ch. 25C § 5, and 220 CMR 1.04(5)(e). Specifically, Telrite requests that confidentiality be afforded to certain materials being submitted to the Department on September 10, 2021, as part of the Company’s *Record Refresh of Telrite Corporation d/b/a Life Wireless* (the “Telrite Record Refresh”).

The Department requested that Telrite refresh the record in this proceeding with: “(1) updated docket filings, including responses to previously filed responses to the Department’s Information Requests, (2) any other relevant information that might have changed since Telrite’s Motion to Stay Proceeding filed on October 31, 2013, and (3) any other information that would assist the Department in reviewing the Petition.” *See* Record Refresh Request, D.T.C 13-1 (November 23, 2020). The Telrite Record Refresh is being submitted on September 10, 2021 in response to that request. Included in the Telrite Record Refresh are certain attachments containing highly sensitive commercial and financial information, for which protection from

disclosure is herein requested. Specifically, Telrite respectfully requests protection from disclosure for (i) customer numbers set forth in Exhibit 3; (ii) the financial statements of Telrite as a private business corporation set forth in Exhibit 5; (iii) Telrite's internal business/financial projections for its operations set forth in Exhibit 6; and (iv) details of the privately-held ownership interests in Telrite set forth in Exhibit 11.

Telrite is electronically submitting, concurrent with this motion, a public, redacted, version of the Telrite Record Refresh. An unredacted version of the Telrite Record Refresh is being submitted to the Hearing Officer contemporaneously with this Motion through a separate electronic submission to the Department.

I. LEGAL STANDARD

The Department has the authority to protect confidential information from public disclosure in accordance with Mass. Gen. Law ch. 25C § 5, which states in part that:

[T]he department may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the department shall protect only so much of the information as is necessary to meet such need.

The Department has established a three-part test for determining whether information submitted by a party in a Department proceeding may be protected from public disclosure under Mass. Gen. Law ch. 25C § 5. First, the information for which protective treatment is sought must constitute "trade secrets, [or] confidential, completely sensitive or other proprietary information." *Id.* Second, the party seeking protective treatment must overcome the presumption in Mass. Gen. Law ch. 66 § 10 that all such information is public information by "proving" the need for non-disclosure. Third, even where a party establishes the need for

protective treatment, the Department may protect only so much of that information as is deemed necessary to meet the established need and may also limit the term or length of time such protection will be in effect. *See CoxCom, Inc. d/b/a Cox Communications*, D.T.C. 19-3, Hearing Officer Ruling on Motions for Protective Treatment at 2-3 (March 3, 2020).

II. ARGUMENT

Telrite's request meets the Department's three-part test. First, the information for which protective treatment is sought – customer information, financial information, business/financial projections, and details of ownership interests – is confidential, proprietary and competitively sensitive information. The customer numbers, not otherwise available to outsiders, directly indicate both whether and where the Company is successfully operating within a market and where it might be vulnerable to competitor incursions. Financial statements and projections are developed internally by Telrite based significantly on information known only to the Company. The ownership interests reflect private contractual arrangements between the Company and its equity-holders, which also occurs in confidential settings without public involvement. Precisely because of this, the information in question is held confidentially by Telrite, a private business company which does not share it with, or authorize disclosure to, the public (or to third parties without appropriate provision for non-disclosure).

Second, the information described in this request for protective treatment has a demonstrably strong need for non-disclosure. Customer numbers and disposition, financial statements and business/operational/financial projections contain information and commercial aspects that, individually and in combination, effectively reflect resources available to a company, strategic management of those resources and strengths (or potential vulnerabilities) associated with, *e.g.*, access to capital, liquidity of assets and strategic plans for operating

decisions going forward. The details of investment or equity interests in a company disclose similar significant information and insights. The public release of the foregoing information would provide all of this sensitive information to the public and, more particularly, to competitors of the Company, revealing proprietary facts and competitively sensitive information to parties who are best positioned to take unwarranted advantage of the access. The result would be to cause Telrite and its corporate affiliates to suffer material damage to their competitive positions and to engender results adverse to the public interest due to the anticompetitive effect such disclosure would have on Telrite's current and future operations. In short, public disclosure of such confidential information would hamper Telrite's ability to most successfully operate its business, to protect strategic business information, to draw investment capital as needed and to successfully pursue collaborative opportunities within the telecommunications sector. None of which would serve the public interest, which today benefits materially from access to Telrite's consistently successful and competitive operations.

Third, if the Department is compelled to limit the period of confidential treatment, Telrite requests that the established period of such treatment be no less than seven (7) years, with an opportunity to renew the request for confidential treatment upon a showing of a legitimate need for continuing protection. Telrite submits that a minimum seven-year confidential period is necessary to ensure that these materials will not be disclosed prematurely while they still could hold immense competitive value to Telrite's competitors.¹

¹ A grant of confidentiality for a seven-year term would be consistent with recent similar decisions by the Department. *See, e.g., Petition of TruConnect Communications, Inc. for Limited Designation as a Lifeline-Only Eligible Telecommunications Carrier*, Order Approving Petition, D.T.C. 20-2 (Aug. 19, 2021).

III. CONCLUSION

WHEREFORE, Telrite respectfully requests that the Department grant this Motion for Protective Order with respect to the aforementioned confidential information for a period of at least seven years with opportunity for Telrite to renew the request for confidential treatment upon a showing of a need for continuing protection. If any request from a third party is made for access to these documents, Telrite requests notification to the undersigned counsel, affording opportunity for the Company to amend and/or clarify this request for confidential treatment and, insofar as necessary, oppose the request for disclosure before the Department acts to release the information.

Respectfully submitted,

By: /s/ Alexander I. Schneider

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September 10, 2021

CERTIFICATION

I hereby certify that I am President of Telrite Corporation d/b/a Life Wireless; that I have reviewed the foregoing Motion for Protective Order (the “Motion”); and that, to the best of my knowledge, information, and belief, the information described in the Motion, and for which confidential treatment is sought, is not customarily available in the public domain.

/s/ Jim Carpenter

Jim Carpenter, President
Telrite Corporation

September 10, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all persons in the service list compiled by the Secretary of the Department in this proceeding and all parties of record in accordance with the requirements of 207 CMR 1.05(1) of the Department's Procedural Rules.

/s/ Winafred R. Brantl
Winafred R. Brantl

September 10, 2021

D.T.C. 13-1

**Telrite Corporation d/b/a Life Wireless Application for Designation as an Eligible
Telecommunications Carrier in the State of Massachusetts for the Limited Purpose of
Offering Wireless Lifeline Service to Qualified Households (Low Income Only)**

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